

1 Dawniell Alise Zavala (CA State Bar No. 253130)  
2 HOLME ROBERTS & OWEN LLP  
3 560 Mission Street, 25<sup>th</sup> Floor  
4 San Francisco, CA 94105-2994  
5 Telephone: (415) 268-2000  
6 Facsimile: (415) 268-1999  
7 Email: dawniell.zavalad@hro.com

8 Attorneys for Plaintiffs,  
9 CAPITOL RECORDS, INC.; UMG  
10 RECORDINGS, INC.; SONY BMG MUSIC  
11 ENTERTAINMENT; and WARNER BROS.  
12 RECORDS INC.

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 CAPITOL RECORDS, INC., a Delaware  
17 corporation; UMG RECORDINGS, INC., a  
18 Delaware corporation; SONY BMG MUSIC  
19 ENTERTAINMENT, a Delaware general  
20 partnership; and WARNER BROS. RECORDS  
21 INC., a Delaware corporation,

22 Plaintiffs,

23 v.

24 JOHN DOE,

25 Defendant.

CASE NO. 3:08-CV-01665-EDL

Hon. Elizabeth D. Laporte

***EX PARTE* APPLICATION TO CONTINUE  
CASE MANAGEMENT CONFERENCE  
AND [PROPOSED] ORDER**

1 Plaintiffs respectfully request that the Court continue the case management conference  
2 currently set for July 1, 2008 at 10:00 a.m. to September 30, 2008. As further explained below,  
3 Plaintiffs have discovered the identity of the Doe defendant in this case and the parties have reached  
4 a provisional settlement. In support of their request, Plaintiffs state as follows:

5 1. The initial case management conference is set for July 1, 2008 at 10:00 a.m.  
6 Plaintiffs have not requested any previous continuances of the case management conference in this  
7 matter.

8 2. Plaintiffs filed their Complaint for Copyright Infringement against Defendant John  
9 Doe ("Defendant") on March 27, 2008. Plaintiffs did not have sufficient identifying information to  
10 name the defendant individually in the Complaint, but were able to identify Defendant by the  
11 Internet Protocol address assigned by Defendant's Internet Service Provider ("ISP").

12 3. In order to determine Defendant's true name and identity, Plaintiffs filed their *Ex*  
13 *Parte* Application for Leave to Take Immediate Discovery on March 27, 2008, requesting that the  
14 Court enter an Order allowing Plaintiffs to serve a Rule 45 subpoena on the ISP.

15 4. The Court entered an Order for Leave to take Immediate Discovery on April 1, 2008,  
16 which Plaintiffs then served upon the ISP along with a Rule 45 subpoena.

17 5. The ISP responded to Plaintiffs' subpoena on June 11, 2008, providing Defendant's  
18 name, address and telephone number. Plaintiffs then sent a letter to Defendant notifying him of  
19 Plaintiffs' claims and inviting Defendant to contact Plaintiffs and attempt resolution of the dispute.

20 6. Plaintiffs' settlement representatives have been in telephone contact with Defendant,  
21 and have discussed settlement. Plaintiffs therefore wish to give Defendant a brief period of time to  
22 conclude settlement negotiations before proceeding with the litigation. If the case settles, Plaintiffs  
23 will promptly file appropriate dispositional documents. If the case does not settle, Plaintiffs plan to  
24 file a First Amended Complaint naming Defendant individually and proceed to serve him with  
25 process.  
26  
27  
28

7. Given the foregoing circumstances, a case management conference is unnecessary at this time. Plaintiffs therefore respectfully request that the Court continue the case management conference currently set for July 1, 2008 at 10:00 a.m. to September 30, 2008.

Dated: June 23, 2008

HOLME ROBERTS & OWEN LLP

By: /s/ Dawniell Alise Zavala  
DAWNIELL ALISE ZAVALA  
Attorney for Plaintiffs  
CAPITOL RECORDS, INC.; UMG  
RECORDINGS, INC.; SONY BMG  
MUSIC ENTERTAINMENT; and  
WARNER BROS. RECORDS INC.

**[PROPOSED] ORDER**

Good cause having been shown:

**IT IS ORDERED** that the case management conference currently set for July 1, 2008 at 10:00 a.m. be continued to September 30, 2008. at 3:00 p.m.

Dated: June 25, 2008

By:   
Honorable Judge Elizabeth D. Laporte  
United States Magistrate Judge